United States District Court
Southern District of Texas
ENTERED
December 06, 2016
David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	CRIMINAL ACTION NO. 5:14-CR-665-1
	§	
MIGUEL GUERRERO	§	

REPORT AND RECOMMENDATIONS OF THE UNITED STATES MAGISTRATE JUDGE

On December 5, 2016, the undersigned held a final hearing on the U.S. Probation Office's Petition for Warrant or Summons for Offender Under Supervision. (Dkt. No. 39). The Government was represented by Assistant United States Attorney Christopher Coker. The Defendant, Miguel Guerrero, was represented by Oscar O. Pena.

The Defendant was sentenced on January 6, 2015, before the Honorable U.S. District Judge Marina Garcia Marmolejo in the Southern District of Texas, Laredo Division, after pleading guilty to three counts of conspiracy to transport, and transporting, undocumented aliens within the United States for financial gain, in violation of 8 U.S.C. §§ 1324(a)(1)(A)(ii), (v)(I), and (B)(i), a class C felony. The offenses carried statutory maximum imprisonment terms of ten years. The Defendant was sentenced to fourteen months imprisonment followed by three years of supervised release subject to court-imposed conditions, including drug and alcohol treatment, for each of the three counts, set to run concurrently. (Dkt. No. 36).

On August 18, 2015, the Defendant completed the term of imprisonment and began service of his supervision term. The Probation Office filed the instant petition on April 19, 2016. (Dkt. No. 39). In the Petition, the Probation Office alleged three violations:

(1) New Law Violation: Assault Causing Bodily Injury;

(2) New Law Violation: Engage in Organized Criminal Activity; and

(3) Failure to notify USPO within 72 hours of arrest or questioning by a law enforcement officer.

The government withdrew the second allegation at the hearing.

An individual commits the offense of assault causing bodily injury under Texas law if the person "intentionally, knowingly, or recklessly causes bodily injury to another." Tex. Penal Code § 22.01(a)(1). With respect to the allegations here, the Petition alleges that on March 7, 2016, Laredo police officers responded to a call involving an assault at 508 Gale Street in Laredo, Texas. Once on the scene, the officers met with the complainant, who explained that he had been walking home with friends when a car drove by them. The occupants of the car shouted names at the pedestrians as they passed. The car then turned sharply and pulled up next to the complainant and his friends. Several of the occupants exited and hit the complainant multiple times on the face; they then got back in the car and departed. The Defendant was later identified as the driver of the vehicle, and was charged with assault and engaging in criminal activity. He was transported to the Webb County jail, and released on bond the same day. The Defendant then failed to notify his probation officer within the ensuing seventy-two hours that he had been arrested, as required by his conditions of supervised release. (Dkt. No. 39).

Based on the Defendant's plea of true to the alleged violations (Nos. 1, 3) in the Petition, the undersigned found the Defendant violated the conditions of supervised release as set forth in allegation numbers one and three. The most serious violation the undersigned found the Defendant committed was a Grade C violation. Based on the Defendant's criminal history category of I, the United States Sentencing Guidelines Manual suggests a range of imprisonment between 3 and 9 months. U.S.S.G. § 7B1.4. The undersigned advised the Defendant she would be recommending the Defendant's supervised release be revoked, and that he be sentenced to time served followed by four months home confinement. The undersigned further advised the Defendant that she would be recommending he be placed back on supervised release after completion of the term of imprisonment under the same terms and conditions as previously imposed for the remainder of the previously imposed term, set to expire on August 17, 2018.

It is therefore **RECOMMENDED** the Defendant's plea of true to the alleged violations (Nos. 1, 3) set forth in the Petition be **ACCEPTED**, as to each of the three counts.

Based on the Defendant's plea of true to the alleged violations (Nos. 1, 3), it is further **RECOMMENDED** that the District Court **FIND** the Defendant violated the conditions of supervised release (Nos. 1, 3) as alleged in the Petition.

It is further **RECOMMENDED** the Defendant's term of supervised release be **REVOKED**, as to each of the three counts.

It is further **RECOMMENDED** the Defendant be sentenced to time served, followed by four months of home confinement, as to each of the three counts.[1]

It is further **RECOMMENDED** that the Defendant be placed back on supervised release under the same terms and conditions as originally imposed, for the remainder of original term, set to expire on August 17, 2018, as to each of the three counts.

At the close of the December 5, 2016 revocation hearing, the Defendant, defense counsel, and counsel for the Government each signed a form waiving their right to object to the proposed findings and recommendations contained in this Report, consenting to revocation of supervised release as recommended herein, and consenting to the imposition of the above sentence recommended in this Report. The Defendant also waived the right to be present and speak before the District Judge when she imposes the recommended sentence. Therefore, the District Court may act on this Report immediately.

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[1] Pursuant to U.S.S.G. § 7B1.3(f), the term of imprisonment shall be served consecutively to any sentence of imprisonment that the Defendant is currently serving, whether or not the sentence of imprisonment being served resulted from the conduct that is the basis of the revocation of supervised release.

SIGNED this 5th day of December, 2016.

Diana Song Quiroga
DIANA SONG QUIROGA
United States Magistrate Judge